

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RALPH PARTNERS II, LLC,
Plaintiff,
v.
JESSIE M. TATE,
Defendant.

Case No. [3:18-cv-07037-WHO](#)

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
REMANDING CASE**

Re: Dkt. Nos. 2, 4

I have reviewed Chief Magistrate Judge Joseph C. Spero's Report and Recommendation to grant defendant Jessie M. Tate's application to proceed *in forma pauperis* and to sua sponte remand this unlawful detainer action to Napa County Superior Court based on lack of federal jurisdiction. Dkt. No. 4. Objections to the recommendation were due no later than 14 days after its service on November 21, 2018. No objections have been filed as of the date of this Order. I find Judge Spero's Report correct, well-reasoned, and thorough; I adopt it in every respect. Accordingly, the *in forma pauperis* request is GRANTED and the case is REMANDED to Napa County Superior Court.


I further note that the defendant has removed the same unlawful detainer case on three prior occasions. 18-cv-3030; 18-cv-4117; 18-cv-5359. Each time it has been remanded for lack of federal jurisdiction. 18-cv-3030 Dkt. No. 12; 18-cv-4117 Dkt. No. 11; 18-cv-5359 Dkt. No. 8. Tate is hereby warned that if he again attempts to remove this case, he is likely to be determined a vexatious litigant filing frivolous notices of removal and become subject to a pre-filing order. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007) ("The All Writs Act, 28 U.S.C. § 1651(a), provides district courts with the inherent power to enter pre-filing orders against

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vexatious litigants.”).

IT IS SO ORDERED.

Dated: December 6, 2018



William H. Orrick
United States District Judge